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5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 AT TACOMA

8 AUSTIN LAZAR,

9 Plaintiff,

10 v.

11 DON BOURBON, SHELBY WILCOX,
12 PIERCE COUNTY SHERIFF'S DEPT.,
13 BOOKING DEPT,

14 Defendants.

CASE NO. 3:18-CV-05175-RBL-DWC

ORDER

15 Plaintiff Austin Lazar, proceeding *pro se* and *in forma pauperis*, initiated this civil rights
16 Complaint pursuant to 42 U.S.C. § 1983. *See* Dkt. 1. Currently before the Court are Plaintiff's
17 Motion to Seal Response ("Motion to Seal") (Dkt. 38) and "Motion to Stay Civil Proceedings
18 until the Termination of Plaintiff's Criminal Proceedings" ("Motion to Stay") (Dkt. 32).¹

19 After consideration of the record, the Motion to Seal (Dkt. 38) and Motion to Stay (Dkt.
20 32) are denied. However, in light of the information provided in the Motion to Stay, the Court
21 grants an extension of time to allow Plaintiff to file a supplemental response to the two pending
22 Motions to Dismiss (Dkts. 26, 28).

23 ¹ The Court also notes Plaintiff filed an untimely Response to Defendant Pierce County's Cross-Motion to
24 Stay Discovery. *See* Dkt. 34. The Court has reviewed Plaintiff's untimely Response, and has determined it does not
change the Order previously entered by the Court. *See* Dkt. 33.

1 **I. Motion to Seal (Dkt. 38)**

2 On August 7, 2018, Defendant Pierce County Sheriff's Department filed a Motion to
3 Dismiss. Dkt. 26. On August 16, 2018, Defendants Don Bourbon and Shelby Wilcox filed a
4 Motion to Dismiss. Dkt. 28. Both Motions to Dismiss became ready for the Court's
5 consideration on September 7, 2018.

6 Plaintiff filed a single Response to both Motions to Dismiss on September 7, 2018, and
7 attached redacted police reports and other documents. *See* Dkt. 39. Plaintiff filed the Motion to
8 Seal that same day, requesting the Court consider the Response and attached documents "as
9 confidential." Dkt. 38. Defendant Pierce County Sheriff's Department filed a timely Response to
10 the Motion to Seal, arguing the Court should deny it because Plaintiff did not comply with the
11 requirements of Local Civil Rule 5(g). Dkt. 40. Defendants Bourbon and Wilcox filed an
12 untimely Response on September 26, 2018, joining in Defendant Pierce County Sheriff's
13 Department Response.² Dkt. 41; *see also* Local Civil Rule 7(d)(7).

14 The Court will not maintain documents under seal simply because parties have
15 designated it confidential. Rather, there is "a strong presumption in favor of access to court
16 records." *Foltz v. State Farm Mut. Auto. Ins. Co.*, 331 F.3d 1122 (9th Cir. 2003); *see also* Local
17 Civil Rule 5(g). Parties who seek to maintain the secrecy of documents related or attached to
18 dispositive motions "must meet the high threshold of showing that 'compelling reasons' support
19 secrecy." *Kamakana v. City & Cnty. of Honolulu*, 447 F.3d 1172, 1180 (9th Cir. 2006) (citing
20 *Foltz*, 331 F.3d at 1136); *see also E. & J. Gallo Winery v. Instituut Voor Landbouw- En*
21 *Visserijonderzoek*, 2018 WL 4090585, at *1-2 (E.D. Cal. Aug. 27, 2018) (applying the
22

23 ² In their Response, Defendants Bourbon and Wilcox request the Court strike Plaintiff's Response to
24 Defendants' Motions to Dismiss for being untimely. Dkt. 41, p.1. Given that the Court is giving each party
additional time to respond to the Motions to Dismiss, the Court denies Defendants' request to strike.

1 “compelling reasons” standard to a dispositive motion). Those compelling reasons must
2 outweigh the competing interests of the public in having access to the judicial records and
3 understanding the judicial process. *Kamakana*, 447 F.3d at 1178-79. “The mere fact that the
4 production of records may lead to a litigant’s embarrassment, incrimination, or exposure to
5 further litigation will not, without more, compel the court to seal its records.” *Id.* at 1179
6 (citation omitted).

7 A party wishing to file materials under seal is subject to the requirements of Local Civil
8 Rule 5(g), which similarly establishes a “strong presumption of public access to the court’s
9 files.” A party seeking to seal a document must file a motion which includes:

10 (A) **a certification that the party has met and conferred** with all other
11 parties in an attempt to reach agreement on the need to file the document under
12 seal, to minimize the amount of material filed under seal, and to explore redaction
and other alternatives to filing under seal; this certification must list the date,
manner, and participants of the conference; [and]

13 (B) **a specific statement of the applicable legal standard and the reasons**
14 **for keeping a document under seal**, including an explanation of:

- 15 i. the legitimate private or public interests that warrant the relief sought;
16 ii. the injury that will result if the relief sought is not granted; and
17 iii. why a less restrictive alternative to the relief sought is not sufficient

18 Local Civil Rule 5(g)(3).

19 In this case, Plaintiff requests his Response and the attached documents be filed under
20 seal because they contain information that is “sensitive” to his pending criminal case in superior
21 court. Dkt. 38. However, Plaintiff failed to explain why the Response or attached documents are
22 sensitive. *See id.* As such, Plaintiff failed to meet his burden of showing “compelling reasons”
23 exist to keep the documents under seal. *Kamakana*, 447 F.3d at 1182 (rejecting efforts to seal
24 documents under the “compelling reasons” standard based on “conclusory statements” that the
documents are confidential and their disclosure would be harmful to the movant). Plaintiff

1 likewise failed to satisfy the requirements of Local Civil Rule 5(g)(3)(B), as he did not provide a
2 “specific statement” of the applicable legal standard or the reasons for keeping the Response and
3 attached documents under seal. Moreover, Plaintiff did not file a certification that he met and
4 conferred with all Defendants regarding the documents he wishes to keep under seal. *See* Local
5 Civil Rule 5(g)(3)(A).

6 In sum, Plaintiff failed to show “compelling reasons” for keeping the Response and
7 attached documents under seal, and further failed to comply with Local Civil Rule 5(g). The
8 Court therefore denies Plaintiff’s Motion to Seal (Dkt. 38).

9 **II. Motion to Stay (Dkt. 32)**

10 On August 20, 2018, Plaintiff signed – effectively filing – the Motion to Stay. Dkt. 32.
11 On September 7, 2018, Pierce County Sheriff’s Office, Bourbon, and Wilcox filed responses
12 opposing the Motion to Stay. Dkts. 35, 37.

13 “A district court has discretionary power to stay proceedings in its own court under
14 *Landis v. North American Co.*” *Lockyer v. Mirant Corp.*, 398 F.3d 1098, 1109 (9th Cir. 2005)
15 (citing *Landis v. North American Co.*, 299 U.S. 248, 254 (1936)). “The power to stay a case is
16 ‘incidental to the power inherent in every court to control the disposition of the causes on its
17 docket with economy of time and effort for itself, for counsel, and for litigants.’” *Halliwell v. A-*
18 *T Sols.*, 2014 WL 4472724, at *7 (S.D. Cal. Sept. 10, 2014) (quoting *Landis*, 299 U.S. at 254).

19 To determine if a stay is appropriate, the Court should weigh the “competing interests
20 which will be effected by the granting or refusal to grant a stay,” including “the possible damage
21 which may result from the granting of a stay, the hardship or inequity which a party may suffer
22 in being required to go forward, and the orderly course of justice measured in terms of the
23 simplifying or complicating of issues, proof, and questions of law which could be expected to
24

1 result from a stay.” *See Lockyer*, 398 F.3d at 1110 (quoting *CMAX, Inc. v. Hall*, 300 F.2d 265,
2 268 (9th Cir. 1962)).

3 Here, Plaintiff requested the Court stay this case because he expected to be in trial for his
4 criminal case for most of September 2018. Dkt. 32. In its Response, Defendant Pierce County
5 Sheriff’s Department likewise asserted Plaintiff would be in a trial for two-to-three weeks in
6 September 2018, but contends “there is no reason” this action should be stayed pending the
7 resolution of Plaintiff’s criminal matter. Dkt. 35.

8 The record therefore indicates Plaintiff’s criminal trial will be completed by the
9 beginning of October. *See* Dkts. 32, 35. As the record indicates Plaintiff’s trial is nearly
10 complete, Plaintiff has not shown he will suffer hardships or inequities if this case proceeds.
11 Thus, Plaintiff has not shown a stay is appropriate at this time, and the Court therefore denies the
12 Motion to Stay (Dkt. 32). However, in light of the information in the Motion to Stay, the Court
13 finds it is appropriate to grant Plaintiff additional time to file a supplemental response.

14 Hence, Plaintiff may file a supplemental response to the Motions to Dismiss by Friday,
15 November 2, 2018. Defendants may file any supplemental reply to the Motions to Dismiss by
16 Friday, November 9, 2018.

17 **III. Conclusion**

18 For the above stated reasons, the Court denies the Motion to Seal (Dkt. 38) and denies the
19 Motion to Stay (Dkt. 32). The Clerk is directed to unseal Plaintiff’s Response (Dkt. 39), and re-
20 note both Motions to Dismiss (Dkts. 26, 28) for the Court’s consideration on November 9, 2018.

21 Dated this 1st day of October, 2018.

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23 _____

24 David W. Christel
United States Magistrate Judge